

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern

District of

New York

CAPITOL RECORDS, INC.,  
et al.

V.

MP3TUNES, LLC AND MICHAEL ROBERTSON

SUMMONS IN A CIVIL ACTION

CASE NUMBER: 07

07 CIV 9931

TO: (Name and address of Defendant)

MP3TUNES, LLC  
5960 CORNERSTONE COURT, FIRST FLOOR  
SAN DIEGO, CA 92121

**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)

ANDREW H. BART  
JENNER & BLOCK, LLP  
919 THIRD AVENUE, 37TH FLOOR  
NEW YORK, NY 10022-3908

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

NOV 09 2007

CLERK

**J. MICHAEL McMAHON**

DATE

(By) DEPUTY CLERK

*[Signature]*

AO 440 (Rev. 8/01) Summons in a Civil Action

<b>RETURN OF SERVICE</b>		
Service of the Summons and complaint was made by me <sup>(1)</sup>	DATE	
NAME OF SERVER ( <i>PRINT</i> )	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
<div style="margin-bottom: 10px;"> <input type="checkbox"/> Served personally upon the defendant. Place where served:         </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.            Name of person with whom the summons and complaint were left:         </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Returned unexecuted:         </div> <div> <input type="checkbox"/> Other (specify):         </div>		
<b>STATEMENT OF SERVICE FEES</b>		
TRAVEL	SERVICES	TOTAL \$0.00
<b>DECLARATION OF SERVER</b>		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on _____ Date _____ Signature of Server _____</p> <p style="text-align: center; margin-top: 20px;">_____ Address of Server</p>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address)		FOR COURT USE ONLY	
<b>JENNER &amp; BLOCK LLP</b> <b>330 N. WABASH AVE. CHICAGO, IL 60611</b>  TELEPHONE NO.: <b>(312) 840-7821</b> FAX NO. (Optional): <b>(312) 527-0484</b> E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):			
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: <b>CA</b> BRANCH NAME:			
PLAINTIFF/PETITIONER: <b>EMI MUSIC ET AL</b> DEFENDANT/RESPONDENT: <b>MP3 TUNES, LLC ET AL</b>		CASE NUMBER: <b>07CV9931</b>	
<b>PROOF OF SERVICE OF SUMMONS</b>		Ref. No. or File No.:	

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
  - a. ☒ summons
  - b. ☒ complaint
  - c. ☐ Alternative Dispute Resolution (ADR) package
  - d. ☒ Civil Case Cover Sheet (served in complex cases only)
  - e. ☐ cross-complaint
  - f. ☒ other (specify documents): **RULE 7.1 STATEMENT; REPORT ON FILING OF ACTION INVOLVING COPYRIGHT; SDNY CASE INITIATING DOCUMENTS**
3. a. Party served (specify name of party as shown on documents served):  
**MP3 TUNES, LLC**
  - b. ☒ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship of party named in item 3a):  
**EMILY RICHARDS, PRESIDENT**
4. Address where the party was served: **5960 CORNERSTONE COURT 1ST FLR  
SAN DIEGO, CA 92121**
5. I served the party (check proper box)
  - a. ☒ **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): **11/09/2007** (2) at (time): **04:05 pm**
  - b. ☐ **by substituted service.** On (date): at (time): I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3b):
    - (1) ☐ **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
    - (2) ☐ **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
    - (3) ☐ **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
    - (4) ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., §415.20). I mailed the documents on (date): from (city): or ☐ a declaration of mailing is attached.
    - (5) ☐ I attach a **declaration of diligence** stating actions taken first to attempt personal service.

PETITIONER: <b>EMI MUSIC ET AL</b>	CASE NUMBER:
RESPONDENT: <b>MP3 TUNES, LLC ET AL</b>	<b>07CV9931</b>

- c. ☐ **by mail and acknowledgment of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): (2) from (city):
- (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgment of Receipt.*) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☐ **by other means** (*specify means of service and authorizing code section*):

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (*specify*):
- c. ☐ as occupant.
- d. ☒ On behalf of (*specify*): **MP3 TUNES, LLC**  
under the following Code of Civil Procedure section:

- |   |   |
|---|---|
| <input type="checkbox"/> 416.10 (corporation)                     | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation)             | <input type="checkbox"/> 416.60 (minor)                               |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee)                 |
| <input type="checkbox"/> 416.40 (association or partnership)      | <input type="checkbox"/> 416.90 (authorized person)                   |
| <input type="checkbox"/> 416.50 (public entity)                   | <input type="checkbox"/> 415.46 (occupant)                            |
|   | <input checked="" type="checkbox"/> other: <b>LLC</b>                 |

7. **Person who served papers**

- a. Name: **Kenneth Robert Maskil, Jr. - Janney & Janney Attorney Service, Inc.**
- b. Address: **4891 Pacific Highway. Ste. 102 San Diego, CA 92110**
- c. Telephone number: **(213) 628-6338**
- d. **The fee for service was: \$ 95.00**
- e. I am:

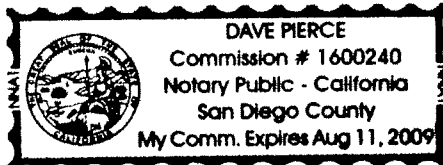
- (1) ☐ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☒ registered California process server:
- (i) ☐ owner ☐ employee ☒ independent contractor.
- (ii) Registration No.: **1097**
- (iii) County: **San Diego**

8. ☒ **I declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. ☐ **I am a California sheriff or marshal and** I certify that the foregoing is true and correct.

Date: **11/13/2007**



**Janney & Janney Attorney Service, Inc.**  
**4891 Pacific Highway. Ste. 102**  
**San Diego, CA 92110**  
**(213) 628-6338**

**Kenneth Robert Maskil, Jr.**

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

(SIGNATURE)